

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

IN THE MATTER OF:

PROCEDURE FOR FILING
DISPOSITIVE MOTIONS IN
CIVIL CASES ASSIGNED TO
HONORABLE RAYMOND L. ACOSTA
UNITED STATES DISTRICT JUDGE

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U.S. DISTRICT COURT
SAN JUAN, P.R.

AMENDED STANDING ORDER¹
PROCEDURE FOR FILING DISPOSITIVE MOTIONS
IN CIVIL CASES ASSIGNED TO JUDGE RAYMOND L. ACOSTA

I. INTRODUCTION

In order to avoid piecemeal filings and expedite the processing of dispositive motions, the undersigned has decided to introduce a procedure utilized in the U.S. District Court of New Jersey whereby dispositive motions, memoranda and documentation are filed **once**, by the moving party, after all responses have been prepared and exchanged between the parties. In the interim, the Court will only receive notices that the pertinent motions have been exchanged.

The Court expects the parties to act in good faith at all times and to amicably resolve all issues associated with this Order. Therefore, it is expected that intervention by the Court prior to the submission of all documents and memoranda pertaining to a particular dispositive motion will be minimal.

¹ This Order amends the previous one issued on September 19, 1994 in two respects. First, the requirement of calling the Court for additional time when the parties cannot agree on a date has been changed to a written motion. Further, a procedure to be followed when respondent does not oppose the dispositive motion has been included as a more efficient procedure.

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Accordingly, all dispositive motions and other motions presenting complex legal or factual issues in all civil cases assigned to the undersigned which are filed on May 15, 1998 and thereafter, shall be presented and defended in the manner prescribed below. The procedures encompassed herein shall be deemed to supersede any conflicting provisions in the Local Rules of this district regarding civil cases before the undersigned.

This procedure is not applicable to motions regarding discovery issues, amendments to pleadings, emergency applications, habeas corpus or *pro se* litigation.

II. PROCEDURE

A. The Motion

When a party is ready to proceed with a dispositive motion, the moving party shall furnish a copy of the motion, memorandum and all supporting documentation to opposing counsel.²

A NOTICE OF SERVICE OF MOTION shall accompany these papers. The original NOTICE shall be filed with the Clerk of the Court and a courtesy copy shall be delivered to the undersigned.³

² The moving party will eventually be responsible for submitting the entire package. (See Section III, IV p.5.)

³ The submission of the NOTICE will enable the Court to acknowledge and follow the status of the motions. Receipt of such NOTICE will be sufficient to evidence the extension of time for filing a responsive pleading, i.e., answer, pursuant to Fed. R. Civ. P. 12(a) and (b).

B. The Opposition

If the opposition papers cannot be prepared within the normal 10-day period provided by Local Rule 311.5, the parties may agree among themselves to a reasonable extension of time. If the parties cannot agree on a date, the party wishing additional time shall file a motion requesting the extension and certifying having first attempted to come to an agreement with opposing counsel regarding the additional time needed to prepare the opposition papers.⁴

An original and two copies of all opposition papers are then to be served upon the moving party⁵ and one copy on all other parties. A NOTICE OF SERVICE OF OPPOSITION shall accompany these papers. The original NOTICE shall be filed with the Clerk of the Court and a courtesy copy shall be delivered to the undersigned.

In the event that respondent fails to timely serve its opposition, movant shall promptly file a motion (1) advising the Court of the attempts made to procure the responses and (2) submit the dispositive motion requesting its disposition without the benefit of an opposition.

⁴ Unless good cause is shown, it is expected that all motions will be fully submitted for consideration with 60 days from the notice of filing of the pertinent dispositive motion.

⁵ This will enable movant to file all original documents as well as courtesy copies thereof in due course.

C. Reply and Sur-Reply

In those situations where the parties consider that arguments raised by the opposing party need to be addressed, replies and sur-replies may be filed without specific leave of Court. Replies and sur-replies shall be served within ten days respectively, except that the parties may agree to a reasonable extension of time. If the parties cannot agree on a date, the party wishing additional time shall file a motion petitioning the extension and certifying of having first attempted to informally agree with opposing counsel for additional time within which to prepare the reply and/or sur-reply papers.

The moving party shall furnish a copy of the reply papers to opposing counsel. A NOTICE OF SERVICE OF REPLY shall accompany these papers. The original NOTICE shall be filed with the Clerk of the Court and a courtesy copy shall be delivered to the undersigned.

Movant shall ascertain from opposing counsel whether or not a sur-reply is intended to be filed. If no sur-reply is to be filed, or after the term to file the sur-reply has expired without receipt of same from opposing counsel, movant shall proceed to file the original and courtesy copies of all briefs and supporting documentation in accordance with the terms of this Order. Otherwise, movant shall wait until receipt of the sur-reply documents to file the original documents and courtesy copy in accordance with the terms of this Order.

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An original and two copies of the sur-reply papers are then to be served on the moving party and one copy on all other parties.

A NOTICE OF SERVICE OF SUR-REPLY shall accompany these papers. The original NOTICE shall be filed with the Clerk of the Court and a courtesy copy shall be delivered to the undersigned.

III. FILING OF MOTIONS

Once the motion has been fully briefed and is ready for consideration by the Court, all original papers, i.e., the dispositive motion "package", shall be filed with the Clerk's Office by the moving party. A courtesy copy of all papers shall be delivered to the undersigned by the moving party.

A NOTICE OF FILING DISPOSITIVE MOTION TOGETHER WITH RESPONSES shall be filed together with the original papers. Copy of the NOTICE shall be served to the undersigned. The Notice shall list separately every motion as well as the pertinent supporting documents for each pleading, i.e., exhibits, affidavits, etc.

It is the burden of all parties to ensure that the Court's record is complete by confirming that the NOTICE correctly identifies all documents needed for the Court's consideration. Any corrections, amendments, deletions and/or supplementations to the NOTICE must be brought to the Court's attention within 10 days from the filing date of the dispositive motion package.

IV. CROSS-MOTIONS

The procedure established in this Order shall be followed for CROSS-MOTIONS as well. Accordingly, unless the cross-motion is

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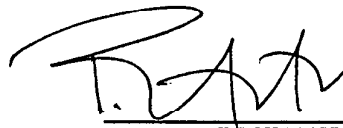
incorporated in the same memorandum as the opposition (in which case the original proponent will continue to be responsible for submitting all legal and documentary material in due course) the proponent of the cross-motion shall be responsible for filing with the Court the original and courtesy copy package of the motions and documents.

V. ORAL ARGUMENT

Any party wishing oral argument must clearly indicate its request on the cover of the dispositive motion or the responses.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 18th day of May, 1998.



RAYMOND L. ACOSTA
United States District Judge